Simon v. Adzilla, Inc [New Media] et al Doc. 302

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Pacific Northwest Software, Inc., Winston Williams, and Wayne Chang

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

FACEBOOK, INC., and MARK ZUCKERBERG,

Plaintiffs,

v.

CONNECTU LLC, (now known as CONNECTU INC.), ET AL.,

Defendants.

CASE NO. C 07-01389 RS

**DEFENDANTS' ADMINISTRATIVE MOTION TO FILE UNDER SEAL THE HIGHLIGHTED AND UNREDACTED VERSION OF DEFENDANTS CONNECTU LLC, PACIFIC NORTHWEST SOFTWARE, INC., WINSTON WILLIAMS AND WAYNE CHANG'S OPPOSITION TO PLAINTIFFS' MOTION FOR PARTIAL SUMMARY JUDGMENT; DECLARATION OF WINSTON WILLIAMS IN SUPPORT THEREOF; DECLARATION OF G. HUNTER JONES, INCLUDING EXHIBIT B; AND EXHIBITS A AND C TO THE DECLARATION OF SCOTT R. MOSKO IN SUPPORT THEREOF**

**DECLARATION OF SCOTT R. MOSKO**

**[PROPOSED] ORDER**

Date: February 27, 2008 10, 2007
Time: 9:30 a.m.
Courtroom.: 4
Judge: Honorable Richard Seeborg

Dockets.Justia.com

**ADMINISTRATIVE MOTION FOR FILING UNDER SEAL**

**1. Papers Submitted for Partial Filing Under Seal**

Pursuant to Civil Local Rules 7-11 and 79-5(c), Defendants respectfully hereby request leave of Court to file under seal certain portions of the following document being lodged with the Clerk:

a. The highlighted and unredacted version of Defendants ConnectU LLC, Pacific Northwest Software, Inc., Winston Williams and Wayne Chang's Opposition to Plaintiffs' Motion for Partial Summary Judgment ("Opposition"). This Opposition contains discussions regarding confidential materials filed in support of it, as well as excerpts of the April 25, 2006 deposition of Plaintiff Mark Zuckerberg. This deposition was designated Highly Confidential, Attorney's Eyes Only by Plaintiffs pursuant to the Stipulated Protective Order in the Santa Clara County Superior Court action, Case No. 1:05-CV-047381, and hence is subject to Local Civil Rule 79-5(c) and the excerpts should be sealed from public view.

As required by Civil Local Rule 79-5(c), Defendants are lodging with the Clerk copies of this Opposition which has been designated Highly Confidential for filing under seal.

**2. Papers Submitted For Filing Under Seal in Their Entireties**

Pursuant to Civil Local Rules 7-11 and 79-5(b), Defendants respectfully hereby request leave of Court to file under seal in their entireties the following documents being lodged with the Clerk:

a. The Declaration of Winston Williams in Support of Defendants ConnectU LLC, Pacific Northwest Software, Inc., Winston Williams and Wayne Chang's Opposition to Plaintiffs' Motion for Partial Summary Judgment ("Williams Declaration"). The Williams Declaration contains discussions of and excerpts from the Declaration of Chris Shiflett in Support of Plaintiffs. Partial Motion for Summary Judgment which the Plaintiffs' have asked to be sealed in its entirety. It also contains discussions regarding ConnectU that are confidential, proprietary and sensitive business information and should remain sealed from public viewing.

b. The Declaration of G. Hunter Jones in Support of Defendants ConnectU LLC, Pacific Northwest Software, Inc., Winston Williams and Wayne Chang's Opposition to Plaintiffs' Motion for Partial Summary Judgment ("Jones Declaration"). The Jones Declaration contains analysis concerning or relating to documents designated as Confidential by the Plaintiffs pursuant to the

Stipulated Protective Order in the Santa Clara County Superior Court action, Case No. 1:05-CV-047381, and hence is subject to Local Civil Rule 79-5(c) and the excerpts should be sealed from public view.

c. Exhibit B to the Jones Declaration is a true and correct copy of a file produced on CD Bates number FBMA0059471 by Plaintiffs and designated as Confidential pursuant to the Stipulated Protective Order in the Santa Clara County Superior Court action, Case No. 1:05-CV-047381, and hence is subject to Local Civil Rule 79-5(b) and the document should be sealed from public view.

d. Exhibit A to the Declaration of Scott R. Mosko in Support of Defendants ConnectU LLC, Pacific Northwest Software, Inc., Winston Williams and Wayne Chang's Opposition to Plaintiffs' Motion for Partial Summary Judgment ("Mosko Declaration") are excerpts from the transcript of the April 25, 2006 deposition of Mark Zuckerberg designated as Highly Confidential by Plaintiff's pursuant to the Stipulated Protective Order in the Santa Clara County Superior Court action, Case No. 1:05-CV-047381. Defendants take no position as to whether the deposition testimony of Mark Zuckerberg is confidential.

e. Exhibit C to the Mosko Declaration are excerpts from the transcript of deposition of Defendant Cameron Winklevoss taken on January 16, 2006 in the Superior Court for the County of Santa Clara action, Case No. 1:05-CV-047381. This deposition transcript was designated as Highly Confidential by Defendants pursuant to the Stipulated Protective Order in the Santa Clara County Superior Court action, Case No. 1:05-CV-047381. This exhibit contains confidential, proprietary and sensitive business information and should remain sealed from public view.

As required by Civil Local Rule 79-5(b), Defendants are lodging with the Clerk copies of theses documents which have been designated "Highly Confidential" and "Confidential" for filing under seal in their entirety.

**SUPPORTING DECLARATION OF SCOTT R. MOSKO**

I, Scott R. Mosko, declare as follows:

1. I am an attorney admitted to practice in the State of California and the United States District Court for the Northern District of California, and a partner of Finnegan, Henderson, Farabow,

Garrett & Dunner, L.L.P., attorneys of record for Defendants ConnectU LLC, Pacific Northwest Software, Inc., Winston Williams and Wayne Chang. The matters referred to in this declaration are based on my personal knowledge and if called as a witness I could, and would, testify competently to those matters.

2. The representations made above in this Administrative Motion are true and correct to the best of my knowledge and belief.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that this declaration was executed this 6th day of February, 2008, at Palo Alto, California.

By:________________/s/__________________
Scott R. Mosko

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## [PROPOSED] ORDER

Upon good cause shown, **IT IS HEREBY ORDERED** that the following documents shall be received and filed under seal in their entireties by the Clerk:

1. The highlighted and unredacted version of Defendants ConnectU LLC, Pacific Northwest Software, Inc., Winston Williams and Wayne Chang's Opposition to Plaintiffs' Motion for Partial Summary Judgment;

2. The Declaration of Winston Williams in Support of Defendants ConnectU LLC, Pacific Northwest Software, Inc., Winston Williams and Wayne Chang's Opposition to Plaintiffs' Motion for Partial Summary Judgment;

3. The Declaration of G. Hunter Jones in Support of Defendants ConnectU LLC, Pacific Northwest Software, Inc., Winston Williams and Wayne Chang's Opposition to Plaintiffs' Motion for Partial Summary Judgment;

4. Exhibit B to the Declaration of G. Hunter Jones in Support of Defendants ConnectU LLC, Pacific Northwest Software, Inc., Winston Williams and Wayne Chang's Opposition to Plaintiffs' Motion for Partial Summary Judgment;

5. Exhibit A to the Declaration of Scott R. Mosko in Support of Defendants ConnectU LLC, Pacific Northwest Software, Inc., Winston Williams and Wayne Chang's Opposition to Plaintiffs' Motion for Partial Summary Judgment;

6. Exhibit C to the Declaration of Scott R. Mosko in Support of Defendants ConnectU LLC, Pacific Northwest Software, Inc., Winston Williams and Wayne Chang's Opposition to Plaintiffs' Motion for Partial Summary Judgment.

Dated: ____________, 2008

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United States Magistrate Judge